

UNITED STATES BANKRUPTCY COURT  
Eastern District of California

Honorable Thomas Holman  
Bankruptcy Judge  
Modesto, California

June 17, 2003 at 2:00 p.m.

---

1. 00-93505-A-7 JASPER BRYANT, JR. & HEARING ON MOTION TO  
FW #3 ADRIANA BRYANT AVOID LIEN ON DEBTORS'  
JASPER BRYANT, JR. & ADRIANA RESIDENCE  
BRYANT VS. 5/15/03 [19]  
NATIONAL CREDIT ACCEPTANCE, INC.

**Tentative ruling:** This motion presents issues which cannot be resolved on declarations. The parties shall be prepared to discuss: (1) a discovery schedule; and (2) an evidentiary hearing date.

2. 03-91516-A-7 MAURICE CHAMBERS, JR. HEARING ON MOTION TO  
FW #2 AVOID NON-POSSESSORY,  
MAURICE CHAMBERS, JR. VS. NON-PURCHASE MONEY SECURITY  
INTEREST  
CITIFINANCIAL 5/22/03 [6]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

3. 03-91323-A-7 PHILIP & KATHLEEN FRAZIER HEARING ON MOTION FOR  
MDV #1 RELIEF FROM AUTOMATIC STAY  
MITSUBISHI MOTORS CREDIT 5/23/03 [10]  
OF AMERICA, INC. VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

4. 03-91230-A-7 ISAAC & MICHELLE GREDINBERG HEARING ON MOTION FOR  
SML #1 RELIEF FROM AUTOMATIC STAY  
CHASE MANHATTAN MORTGAGE CORP. VS. 5/16/03 [9]

**Disposition Without Oral Argument:** This motion for relief from the automatic stay has been filed pursuant to LBR 4001-1 and LBR 9014-1(f)(1). The failure of the debtors, the trustee, and all other parties in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Therefore, the matter is resolved

without oral argument.

The motion is granted to the following extent: As to the debtors and the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d) (1) in order to permit the movant to foreclose and to obtain possession of the subject real property following the sale, all in accordance with applicable non-bankruptcy law. As to the debtors, cause exists for relief from the automatic stay because that movant alleged without dispute that the debtors defaulted in making at least eight monthly payments. As to the estate, the trustee's lack of opposition to this motion, as well as his No Distribution report, indicates that the trustee cannot administer the subject property for the benefit of creditors. That is cause for relief as against the estate.

Movant shall serve a copy of the order granting relief on the holders of all junior liens.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 10-day period specified in Fed.R.Bankr.P. 4001(a) (3) is not waived.

Except as so ordered, the motion is denied.

Counsel for movant shall submit an order that conforms to the court's ruling.

5.	03-91433-A-7	RONALD & PATRICIA FIEDLER	HEARING ON MOTION FOR
	MPD #1		RELIEF FROM AUTOMATIC STAY
	GMAC MORTGAGE CORPORATION, DBA		5/21/03 [10]
	DITECH.COM		

**Disposition Without Oral Argument:** The motion is granted in part, and denied in part, to the extent set forth below.

The motion is granted to the following extent: As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d) (1) in order to permit the movant to foreclose on the estate's interest, in accordance with applicable non-bankruptcy law. The trustee's lack of opposition to this motion, as well as his No Distribution report, indicates that the trustee cannot administer the subject property for the benefit of creditors. That is cause for relief from the stay, as against the estate.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed. These fees may be enforced only against the movant's collateral.

The 10-day period specified in Fed.R.Bankr.P. 4001(a) (3) is not waived, as to the estate's interest.

As to the debtors, the motion is denied without prejudice. The movant has failed to serve the debtors properly with the motion. Pursuant to Bankruptcy Rule 4001(a) (1), this is a contested matter under Bankruptcy Rule 9014. Bankruptcy Rule 9014 states that relief is requested by

motion, that notice must be given to the parties against whom relief is sought and that the motion shall be served in the manner set forth in Bankruptcy Rule 7004. Bankruptcy Rule 7004(b)(9) states that service on a debtor in a bankruptcy case is made by mailing to the debtor at the address shown in petition or statement of affairs, or to an address designated by the debtor in a filed writing and, if the debtor is represented by counsel, to the debtor's attorney at the attorney's post office address. Here, the movant did not serve the debtors in accordance with their notice of Change of Address, filed on May 15, 2003 (before this motion was filed).

The court notes for the movant that the deadline to file an objection to the debtors receiving a discharge is July 7, 2003. Should no objection be filed, the debtors will receive their discharge, and the automatic stay will end, as to their interest, as a matter of law. 11 U.S.C. § 362(c)(2)(C).

The court will issue a minute order.

- |    |   |  |
|----|---|--|
| 6. | 03-91733-A-7      MANUEL I. MORENO<br>SW #1<br>GMAC VS. | HEARING ON MOTION FOR<br>RELIEF FROM AUTOMATIC STAY<br>5/27/03 [5] |
|----|---|--|

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

- |    |   |  |
|----|---|--|
| 7. | 03-91656-A-7      RAMSIN & RAMINA OSHANA<br>WJS #1<br>OAK VALLEY COMMUNITY BANK VS. | HEARING ON MOTION FOR<br>RELIEF FROM AUTOMATIC STAY<br>5/21/03 [5] |
|----|---|--|

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

- |    |   |  |
|----|---|--|
| 8. | 03-91369-A-7      RACHEL ANN UGALE<br>MPD #1<br>GMAC MORTGAGE CORPORATION VS. | HEARING ON MOTION FOR<br>RELIEF FROM AUTOMATIC STAY<br>5/21/03 [8] |
|----|---|--|

**Disposition Without Oral Argument:** This motion for relief from the automatic stay has been filed pursuant to LBR 4001-1 and LBR 9014-1(f)(1). The failure of the debtor, the trustee, and all other parties in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Therefore, the matter is resolved without oral argument.

The motion is granted to the following extent: As to the debtor and the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose and to obtain possession of the subject real property following the sale, all in accordance with

applicable non-bankruptcy law. As to the debtor, cause exists for relief from the automatic stay because that movant alleged without dispute that the debtors defaulted in making at least three monthly payments. As to the estate, the trustee's lack of opposition to this motion, as well as his No Distribution report, indicates that the trustee cannot administer the subject property for the benefit of creditors. That is cause for relief as against the estate.

Movant shall serve a copy of the order granting relief on the holders of all junior liens.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed. These fees may be enforced only against the movant's collateral.

The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived.

Except as so ordered, the motion is denied.

Counsel for movant shall submit an order that conforms to the court's ruling.

9.	03-91480-A-7      MICHAEL WAYNE GIBSON OHP #1 COUNTRYWIDE HOME LOANS, INC. VS.	HEARING ON MOTION FOR RELIEF FROM AUTOMATIC STAY TO PERMIT FORECLOSURE UPON AND SALE OF REAL PROPERTY 5/14/03 [10]
----	--	--

**Disposition Without Oral Argument:** The motion is granted in part, and denied in part, to the extent set forth below.

The motion is granted to the following extent: As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the estate's interest, in accordance with applicable non-bankruptcy law. The trustee's lack of opposition to this motion, as well as his No Distribution report, indicates that the trustee cannot administer the subject property for the benefit of creditors. That is cause for relief as against the estate.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed. These fees may be enforced only against the movant's collateral.

The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived, as to the estate's interest.

As to the debtor, the motion is denied without prejudice. The movant has failed to serve the debtor properly with the motion. Pursuant to Bankruptcy Rule 4001(a)(1), this is a contested matter under Bankruptcy Rule 9014. Bankruptcy Rule 9014 states that relief is requested by motion, that notice must be given to the parties against whom relief is sought and that the motion shall be served in the manner set forth in Bankruptcy Rule 7004. Bankruptcy Rule 7004(b)(9) states that service on a debtor in a bankruptcy case is made by mailing to the debtor at the address shown in petition or statement of affairs, or to an address designated by the debtor in a filed writing and, if the debtor is

represented by counsel, to the debtor's attorney at the attorney's post office address. Here, the movant did not serve the debtors in accordance with his notice of Change of Address, filed on May 2, 2003 (over one week before this motion was filed).

The court notes for the movant that the deadline to file an objection to the debtors receiving a discharge is July 7, 2003. Should no objection be filed, the debtors will receive their discharge, and the automatic stay will end, as to their interest, as a matter of law. 11 U.S.C. § 362(c)(2)(C).

The court will issue a minute order.

10.	03-91383-A-7	MARKO & LIDIA RUIZ	HEARING ON MOTION FOR
	SJM #1		RELIEF FROM AUTOMATIC STAY
	MORTGAGE ELECTRONIC		5/21/03 [7]
	REGISTRATION SYSTEMS, INC. VS.		

**Tentative Ruling:** This motion for relief from the automatic stay has been filed pursuant to LBR 4001-1 and LBR 9014-1(f)(1). The failure of the debtor, the trustee, and all other parties in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). In this instance, since the debtors are *pro se*, the court issues a tentative ruling.

The motion is granted to the following extent: As to the debtors and the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose and to obtain possession of the subject real property following the sale, all in accordance with applicable non-bankruptcy law. As to the debtors, cause exists for relief from the automatic stay because that movant alleged without dispute that the debtors defaulted in making at least two monthly payments. As to the estate, the trustee's lack of opposition to this motion, as well as his No Distribution report, indicates that the trustee cannot administer the subject property for the benefit of creditors. That is cause for relief as against the estate.

Movant shall serve a copy of the order granting relief on the holders of all junior liens.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed. These fees may be enforced only against the movant's collateral.

The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived.

Except as so ordered, the motion is denied.

Counsel for movant shall submit an order that conforms to the court's ruling.

11.	03-91185-A-7	MANUEL & HILDA MORENO	HEARING ON MOTION FOR
	MPD #1		RELIEF FROM AUTOMATIC STAY
	MORTGAGE ELECTRONIC REGISTRATION		5/21/03 [13]
	SYSTEMS, INC. VS.		

**Disposition Without Oral Argument:** This motion for relief from the automatic stay has been filed pursuant to LBR 4001-1 and LBR 9014-1(f)(1). The failure of the debtors, the trustee, and all other parties in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Therefore, the matter is resolved without oral argument.

The motion is granted to the following extent: As to the debtors and the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose and to obtain possession of the subject real property following the sale, all in accordance with applicable non-bankruptcy law. As to the debtors, cause exists for relief from the automatic stay because that movant alleged without dispute that the debtors defaulted in making at least three monthly payments. As to the estate, the trustee's lack of opposition to this motion, as well as his No Distribution report, indicates that the trustee cannot administer the subject property for the benefit of creditors. That is cause for relief as against the estate.

Movant shall serve a copy of the order granting relief on the holders of all junior liens.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed. These fees may be enforced only against the movant's collateral.

The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived.

Except as so ordered, the motion is denied.

Counsel for movant shall submit an order that conforms to the court's ruling.

12.	01-92886-A-11	MICHAEL HAT	HEARING ON MOTION FOR
	DO #1		RELIEF FROM AUTOMATIC STAY
	YOSEMITE LAND BANK, FLCA VS.		5/20/03 [1636]

**Tentative Ruling:** None. Appearances required.

13.	03-91687-A-7	CARL & ANDREA LEHNER	HEARING ON MOTION FOR
	MKB #1		RELIEF FROM AUTOMATIC STAY
	WELLS FARGO BANK WEST, N.A. VS.		5/19/03 [7]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-

1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

14. 03-91689-A-7 CARLOS & MARISELA CANTU HEARING ON MOTION FOR  
JMG #1 TERMINATION OF AUTOMATIC  
BANK OF AMERICA VS. STAY, OR ALTERNATIVELY,  
MOTION TO ASSUME OR REJECT  
LEASE AGREEMENT  
PART II  
5/23/03 [7]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

15. 03-91590-A-7 NOEL & NERISA VIACRUSIS HEARING ON MOTION FOR  
RMD #1 RELIEF FROM AUTOMATIC STAY  
AMERICREDIT FINANCIAL SERVICES, 5/22/03 [6]  
INC. VS.

**Disposition Without Oral Argument:** This motion for relief from the automatic stay has been filed pursuant to LBR 4001-1 and LBR 9014-1(f)(1). The failure of the debtors, the trustee, and all other parties in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Therefore, the matter is resolved without oral argument.

The motion is granted to the following extent: As to the debtors and the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to repossess its collateral, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant claims without dispute that the value of the vehicle to be \$8,050. Movant holds a lien on the vehicle in the amount of \$13,280.98. There is no equity in the subject property and it is not necessary for an effective reorganization or rehabilitation. The lack of written opposition by the trustee, in addition to his No Distribution report, shows that the trustee cannot administer the subject property for the benefit of creditors. Movant also alleges without dispute that debtors have not made at least three payments. Furthermore, the debtors' Statement of Intent indicated their intent to surrender the vehicle. This is cause for relief from the automatic stay.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 10-day stay of Fed.R.Bankr.P. 4001(a)(3) is ordered waived due to the fact that the debtor surrendered the property to the movant, and the movant is in possession of the property.

Except as so ordered, the motion is denied.

Counsel for the movant shall submit an order that conforms to the court's ruling.

16. 03-91191-A-7 VICTOR & DEANNA GARIBAY HEARING ON MOTION FOR  
MDV #1 RELIEF FROM AUTOMATIC STAY  
MITSUBISHI MOTORS CREDIT OF 5/22/03 [12]  
AMERICA, INC. VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

17. 03-90694-A-7 JACINTA F. INOCENCIO HEARING ON MOTION FOR  
ASW #1 RELIEF FROM AUTOMATIC STAY  
FAIRBANKS CAPITAL CORP. VS. 5/14/03 [9]

**Disposition Without Oral Argument:** This motion for relief from the automatic stay has been filed pursuant to LBR 4001-1 and LBR 9014-1(f)(1). The failure of the debtor, the trustee, and all other parties in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Therefore, the matter is resolved without oral argument.

The motion is granted to the following extent: As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362 (d)(1) in order to permit the movant to foreclose and to obtain possession of the subject real property following the sale, all in accordance with applicable non-bankruptcy law. The lack of written opposition by the trustee, in addition to his No Distribution report, shows that the trustee cannot administer the subject property for the benefit of creditors.

As to the debtor, however, the motion is denied as moot. The debtor was discharged from all dischargeable debts on May 29, 2003.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed. These fees may be enforced only against the movant's collateral.

The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived.

Except as so ordered, the motion is denied.

Counsel for movant shall submit an order that conforms to the court's ruling.



18. 98-90094-A-7 ROSE GAIA  
FF #4  
ROSE GAIA VS.  
  
DANIEL C. MOORE

HEARING ON MOTION TO  
AVOID LIEN PURSUANT TO  
11 U.S.C. SECTION 522(F) (1)  
5/8/03 [35]

**Tentative Ruling:** This motion has been filed pursuant to LBR 9014-1(f)(1). The failure of any party in interest to file timely written opposition as required by this local rule is considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1)(ii). In this instance, the court issues a tentative ruling.

The court notes the Notice of Hearing improperly references "Rule 401 Part II" of the LBR of the Modesto Division. There is no such rule. Counsel should modify his forms to delete incorrect rule references.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), and the lien recorded on January 25, 1996 (Serial No. 96008313) by Daniel C. Moore in the amount of \$550.00 is avoided. The subject real property has a value of \$150,000 as of the date of the petition. The unavoidable liens total \$147,185.13. The debtor claimed the property as exempt under Cal. C.C.P. 704.730, leaving an available exemption of \$50,000. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing is avoided.

This order does not, as debtor requests, avoid any lien "arising from the judgment by DANIEL C. MOORE, against debtor." It avoids to the lien described above.

Counsel for debtor shall submit an order that conforms to the court's ruling.

19. 03-90301-A-7 ARLENE L. BIONDO  
SLC #1  
MITSUBISHI MOTORS CREDIT OF  
AMERICA, INC. VS.

HEARING ON MOTION FOR  
RELIEF FROM AUTOMATIC STAY  
6/2/03 [17]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

20. 02-92603-A-7 JOHN & LITSA PAPPAS HEARING ON MOTION FOR  
RLE #1 RELIEF FROM AUTOMATIC STAY  
DAIMLERCHRYSLER SERVICES NORTH AS TO THE CHAPTER 7 TRUSTEE  
AMERICA LLC VS. AND THE UNITED STATES  
TRUSTEE  
6/2/03 [65]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

21. 02-92309-A-7 JEFF & CAROLE CARNIE HEARING ON MOTION TO  
MSN #2 AVOID LIEN ON DEBTORS'  
JEFF & CAROLE CARNIE VS. RESIDENCE  
5/30/03 [20]  
NATIONAL CREDIT ACCEPTANCE

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

22. 02-92309-A-7 JEFF & CAROLE CARNIE HEARING ON MOTION TO  
MSN #3 AVOID LIEN ON DEBTORS'  
JEFF & CAROLE CARNIE VS. RESIDENCE  
5/30/03 [16]  
FIRST SELECT CORPORATION

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

23. 02-92309-A-7 JEFF & CAROLE CARNIE HEARING ON MOTION TO  
MSN #4 AVOID LIEN ON DEBTORS'  
JEFF & CAROLE CARNIE VS. RESIDENCE  
5/30/03 [12]  
GREENWOOD TRUST CO.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

24. 03-92018-A-7 JEFFERY & DIANNE GATLIN HEARING ON MOTION FOR  
SW #1 RELIEF FROM AUTOMATIC STAY  
GMAC VS. 6/3/03 [5]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

25. 03-91525-A-7 DANIEL J. O'DONNELL HEARING ON MOTION FOR  
JMG #1 TERMINATION OF AUTOMATIC  
BANK OF AMERICA VS. STAY, OR ALTERNATIVELY,  
MODIFICATION OF THE  
AUTOMATIC STAY  
5/30/03 [5]

**Tentative Ruling:** This is a motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

The court notes the movant failed to serve the debtor's attorney properly. Pursuant to Bankruptcy Rule 4001(a)(1), this is a contested matter under Bankruptcy Rule 9014. Bankruptcy Rule 9014 states that relief is requested by motion, that notice must be given to the parties against whom relief is sought and that the motion shall be served in the manner set forth in Bankruptcy Rule 7004. Bankruptcy Rule 7004(b)(9) states that service on a debtor in a bankruptcy case is made by mailing to the debtor at the address shown in petition or statement of affairs and, if the debtor is represented by counsel, to the debtor's attorney at the attorney's post office address. Here, the movant served the debtor's counsel at the wrong address.

The court will issue a minute order.

26. 03-92044-A-7 ERNEST BOIRE HEARING ON MOTION TO  
FW #1 AVOID LIEN ON DEBTOR'S  
ERNEST BOIRE VS. RESIDENCE  
5/30/03 [5]  
DISCOVER BANK, DISCOVER FINANCIAL

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

27. 03-91456-A-7 VICKI L. WALLACE HEARING ON MOTION FOR  
AB #1 RELIEF FROM AUTOMATIC STAY  
FIRST MERIT BANK, N.A. VS. 6/3/03 [14]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-

1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

28.	02-91761-A-7      PHILIP BONSTEIN MET #1 EASTERN SAVINGS BANK VS.	HEARING ON MOTION FOR TERMINATION OF AUTOMATIC STAY 6/3/03 [54]
-----	---	--

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

29.	03-92064-A-7      LONNIE MAE BAGUINDO MJN #1 FIRST MORTGAGE CORPORATION VS.	HEARING ON MOTION FOR RELIEF FROM AUTOMATIC STAY 6/4/03
-----	---	---

**Tentative Ruling:** This is a motion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

The court notes that the Notice of Hearing improperly states that "If the Court determines that resolution of the motion does not require oral argument, the Court may remove the matter from calendar and resolve the matter without oral argument." That is an incorrect statement under the Local Bankruptcy Rules for an (f)(2) motion, which does not require written opposition. Since the Notice of Hearing informs the parties that opposition may be presented at the hearing, the court will not deny the motion, in this instance, for failure to comply with LBR 9014-1(d)(3).

30.	03-91578-A-11      WILLIS TRUCKING, INC. SW #1 GMAC VS.	HEARING ON MOTION FOR RELIEF FROM AUTOMATIC STAY 5/30/03 [22]
-----	---	---

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

31.	02-94385-A-7      JOHN & VIVIAN MORGAN LJB #1 CHASE MANHATTAN MORTGAGE CORPORATION VS.	CONT. HEARING ON MOTION FOR RELIEF FROM AUTOMATIC STAY AND FOR LEAVE TO EXERCISE POWER OF SALE IN DEED OF TRUST TO REAL PROPERTY; OR, ALTERNATIVELY, FOR ADEQUATE PROTECTION; ATTORNEY'S FEES 5/5/03 [29]
-----	---	---

**Tentative Ruling:** This motion was continued from June 3, 2003, at the

request of the court and with the consent of the parties, to allow the court to review the trustee's report of sale. The trustee's report of sale shows, *inter alia*, that the sale closed on June 4, 2003, with the movant's lien being fully satisfied. As such, the motion is denied as moot, because the movant has been paid all owed amounts.

The court also notes the motion is moot as to the debtors, because they were discharged from all dischargeable debts on March 4, 2003, and the automatic stay ended as to them on that date by operation of law. 11 U.S.C. § 362(c)(2)(C).

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

Counsel for the moving creditor shall submit an order that conforms to the court's ruling.

32.	03-91985-A-7	JULIE A. MENDEZ	HEARING ON MOTION FOR
	SW #1		RELIEF FROM AUTOMATIC STAY
	GMAC VS.		6/3/03 [5]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

33.	03-91887-A-7	JERRY & MELISSA SWAIN	HEARING ON MOTION FOR
	TJP #1		RELIEF FROM AUTOMATIC STAY
	TRIAD FINANCIAL CORP. VS.		6/2/03 [5]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

34.	03-90798-A-7	ANNA MARIA VERDUZCO	HEARING ON MOTION FOR
	SLC #1		RELIEF FROM AUTOMATIC STAY
	MITSUBISHI MOTORS CREDIT OF		6/2/03 [27]
	AMERICA, INC. VS.		

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.